



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
May 31, 2002

CC:SBSE:SWatson
124389-02

MEMORANDUM FOR BEDELL TERRY
PROGRAM DIRECTOR, COMPLIANCE CENTER COLLECTION

FROM: Miriam A. Howe, Manager, General Litigation-Collection
Division Counsel, Small Business Self Employed
CC:SBSE

SUBJECT: Systemic Levies ACS

You have requested advice concerning the restrictions on using a systemic (automated) levy program in ACS after enactment of section 3421 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98). We have reviewed the legal opinions regarding this issue and conclude that ACS may reinstate a systemic levy program.

RRA98 section 3421 required supervisory review, where appropriate, of a decision by an employee to propose a levy, before levy action could be taken. In the supervisor's discretion, the supervisor could certify that the employee had reviewed taxpayer information, verified a balance due, and could affirm the appropriateness of the action given the circumstances of the taxpayer, the amount due, and the value of the property. Counsel informed the Assistant Commissioner (Collection) by memorandum dated September 15, 1999, that managerial approval of levies under the automated levy program was satisfied by safeguards already in place prior to enactment of section 3421. Later that year, counsel clarified that ACS levies that were not automated were subject to section 3421 from the date of enactment. Totally automated levies, however, were not subject to section 3421 even after the later effective date of December 31, 2000, since, as Counsel noted, sufficient safeguards already existed. As a policy matter, however, Collection discontinued an automated levy program in ACS at that time.

Since then, ACS has instituted an automated Collection Due Process (CDP) notice system with employee follow-up after the thirty day statutory period and the fifteen day grace period for filing a request for a CDP hearing has expired. We approve your proposal to automate the levy process after CDP requirements are met. As you note in your memorandum, this automated process will have proper criteria. Taxpayers whose

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cases do not meet the criteria for automated approval will be analyzed individually by ACS employees with subsequent supervisory review as required by section 3421.

Susan Watson is handling the case in this office. Please call her at 202-283-7669 if you have any questions. Please let us know if we can be of further assistance.